



Office of the Attorney General

State of Texas

February 7, 1992

DAN MORALES

ATTORNEY GENERAL

Ms. Amy Nickell Jacobs
Attorney At Law
Haynes and Boone, L.L.P.
1300 Burnett Plaza
Fort Worth, Texas 76102-4706

OR92-55

Dear Ms. Jacobs:

You ask whether copies of mobile telephone bills for a deputy fire chief are subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14767. We have considered the exceptions you claimed, specifically sections 3(a)(3) and 3(a)(1) and have reviewed the documents at issue.

You state that numerous calls are related to pending litigation. However, you do not explain which calls these are, nor do you explain how the information contained in a billing statement relates to the subject matter of a suit alleging defamation, intentional infliction of emotional distress, and violation of constitutional rights. As the relationship of the requested information to the subject matter of the lawsuit has not been explained and is not apparent, we have no basis for finding that the requested information may be withheld under section 3(a)(3). *See, e.g.,* Open Records Decision No. 429 (1985).

Information is excepted from public disclosure under common-law privacy as incorporated into the Open Records Act by section 3(a)(1) if (1) it contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person *and* (2) the information is of no legitimate concern to the public. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert denied*, 430 U.S. 931 (1977). Nothing in the requested information appears to be highly intimate or embarrassing. Moreover, information regarding financial obligations or transactions involving the city and an employee are of public concern. The fact that the city is reimbursed for personal calls does not exempt the information from disclosure. Indeed, the public has an interest in the manner in which the reimbursements are made and calculated.

As we do not find the requested information to be protected by the exception you assert, you must release the requested information. We are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-55.

Yours very truly,



John Steiner

Assistant Attorney General
Opinion Committee

JS/lb

Ref.: ID# 14767

cc: Walter Pettijohn
525 Oak Grove
Coppell, Texas 75019